

HOUSE BILL NO. 338

INTRODUCED BY REAM, FORRESTER

IN THE HOUSE

JANUARY 25, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
FEBRUARY 18, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 19, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 20, 1993	ENGROSSING REPORT.
FEBRUARY 22, 1993	THIRD READING, PASSED. AYES, 93; NOES, 6.
FEBRUARY 23, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
MARCH 22, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 24, 1993	SECOND READING, CONCURRED IN.
MARCH 25, 1993	THIRD READING, CONCURRED IN. AYES, 40; NOES, 9.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 25, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 338  
 2 INTRODUCED BY Ream Forrester  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 5 LAWS RELATING TO THE LICENSING AND OPERATION OF GAME FARMS;  
 6 ELIMINATING THE GAME FARM SHOOTING LICENSE; REVISING  
 7 DEFINITIONS, PENALTIES, APPLICATION PROCEDURES, AND  
 8 LICENSING CRITERIA RELATED TO GAME FARM LICENSURE;  
 9 INCREASING THE LICENSE FEE; REVISING ANIMAL TRANSPORTATION  
 10 AND SALE PROVISIONS; REVISING LICENSE REVOCATION CRITERIA  
 11 AND PROCEDURES; EXPANDING RECORDKEEPING REQUIREMENTS;  
 12 AMENDING SECTIONS 87-4-406, 87-4-407, 87-4-409, 87-4-411,  
 13 87-4-412, 87-4-414, 87-4-415, 87-4-416, 87-4-417, 87-4-422,  
 14 87-4-423, AND 87-4-424, MCA; REPEALING SECTION 87-4-421,  
 15 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16  
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 87-4-406, MCA, is amended to read:

19 "87-4-406. Definitions. As used in this part, the  
 20 following definitions apply:

21 (1) "Department" means the department of fish,  
 22 wildlife, and parks.

23 (2) "Facilities" means perimeter fences and other  
 24 enclosures that provide for the confinement, handling, and  
 25 quarantine of game farm animals.

1 (2)(3) "Game animals" means game animals as defined in  
 2 87-2-101 that are not the lawful property of any private  
 3 person.

4 (3)(4) "Game farm" means the enclosed land area upon  
 5 which game farm animals may be kept for purposes of  
 6 obtaining, rearing in captivity, keeping, and selling game  
 7 farm animals or parts of game farm animals, as authorized  
 8 under this part.

9 (4)(5) "Game farm animal" means a privately owned  
 10 caribou, black bear, mountain lion, white-tailed deer, mule  
 11 deer, elk, moose, antelope, mountain sheep, or mountain goat  
 12 indigenous to the state of Montana or any other  
 13 cloven-hoofed ungulate as classified by the department.

14 (5) ~~"Game--farm--shooting--license"--means--the--license~~  
 15 ~~required--under--87-4-421--for--a--game--farm--operator--to--hunt--the~~  
 16 ~~game--farm--animals--indigenous--to--the--state--of--Montana--on--his~~  
 17 ~~game--farm--~~

18 (6) "Person" means an individual, firm, corporation,  
 19 association, or partnership."

20 **Section 2.** Section 87-4-407, MCA, is amended to read:

21 "87-4-407. License required -- penalty -- seizure of  
 22 illegally possessed animals. (1) No A person may not operate  
 23 a game farm in this state without first obtaining a game  
 24 farm license from the department.

25 (2) A person who operates a game farm without a license

1 or possesses, transports, buys, or sells animals whose  
 2 importation into the state is restricted pursuant to  
 3 87-4-424 is guilty of a misdemeanor and is subject to the  
 4 penalties provided in [section 12(4)].

5 (3) Any animal held in violation of subsection (2) or  
 6 otherwise illegally possessed may be immediately seized by  
 7 the department and is subject to disposal by the department.  
 8 Costs of seizure may be charged to the person in possession  
 9 of the animal."

10 **Section 3.** Section 87-4-409, MCA, is amended to read:

11 "87-4-409. Application for license -- limitations on  
 12 issuance. (1) Any A person desiring to obtain a game farm  
 13 license shall make written application to the department on  
 14 forms provided by the department. The application shall  
 15 specify:

16 (a) the applicant's name;

17 (b) the applicant's address;

18 (c) the name and address of the individual who will be  
 19 the principal manager of the game farm;

20 (d) the exact legal description of the land upon which  
 21 the game farm is to be located, together with the nature of  
 22 the applicant's title thereto to the land, whether in fee,  
 23 under lease, by contract for deed, or otherwise;

24 (d)(e) the species of game farm animals proposed to be  
 25 kept or reared on the game farm;

1 (e)(f) the type of fencing facilities contemplated and  
 2 the location of perimeter fencing;

3 (f)(g) the source from which the applicant intends to  
 4 acquire the game animals;

5 (g)(h) if the applicant is not a Montana resident, the  
 6 name and address of a Montana resident designated by the  
 7 applicant as his the applicant's local agent;

8 (h)(i) if the applicant is a corporation, the full  
 9 names and addresses of all stockholders owning more than 10%  
 10 of the stock in the corporation; and

11 (i)(j) information demonstrating that the applicant is  
 12 responsible.

13 (2) A--game--farm--license--shall--be--issued--only--to--a  
 14 responsible--applicant--who--owns--or--leases--the--premises--on  
 15 which--the--operations--are--to--be--conducted--and--who--has  
 16 properly--fenced--the--land--upon--which--the--game--farm--is--to--be  
 17 located.--The--fencing--must--be--designed--and--constructed--to  
 18 prevent--the--escape--of--the--species--of--game--farm--animals--kept  
 19 on--the--land--and--to--prevent--the--entry--of--the--same--species--of  
 20 game--animals. Within 30 days of receipt of an application,  
 21 the department shall notify the applicant in writing whether  
 22 the application:

23 (a) is in compliance and is accepted as complete; or

24 (b) is not in compliance and shall list any  
 25 deficiencies that must be corrected before the application

1 is in compliance. The department shall return any  
 2 noncomplying application to the applicant, who may resubmit  
 3 the application upon correction of the deficiencies.

4 (3) Within ~~60~~ 120 days of receiving the acceptance of a  
 5 complete application, the department shall notify the  
 6 applicant of its proposed decision to approve, approve with  
 7 stipulations, or deny the application. If the department  
 8 determines that the preparation of an environmental impact  
 9 statement is required by Title 75, chapter 1, and by  
 10 department rules adopted pursuant to the Montana  
 11 Environmental Policy Act, then the department has an  
 12 additional 180 days to act on the completed application. If  
 13 required fencing has not been completed, the department  
 14 shall approve the application subject to completion and  
 15 approval of the fencing. If the application is denied or  
 16 approved with stipulations, the department shall specify the  
 17 reasons for denial or stipulations."

18 NEW SECTION. Section 4. Criteria for issuance of  
 19 license -- fencing and enclosure requirements. (1) A game  
 20 farm license may be issued by the department only to an  
 21 applicant:

22 (a) who owns or leases the premises on which the  
 23 operations are to be conducted;

24 (b) who has not been or whose principal manager has not  
 25 been convicted of or who has not forfeited bond of \$100 or

1 more for more than one violation of the fish and game laws  
 2 or applicable regulations of any state or the United States  
 3 within a 5-year period prior to application;

4 (c) who has not or whose principal manager has not at  
 5 any time pleaded guilty to or been convicted of a felony,  
 6 unless civil rights have been restored pursuant to law. A  
 7 person may not apply for licensure during any time in which  
 8 a deferred or suspended felony sentence is in effect.

9 (d) who is or whose principal manager is at least 18  
 10 years of age.

11 (2) A game farm license must be issued by the  
 12 department if:

13 (a) the applicant has properly fenced the perimeter of  
 14 the land upon which the game farm is to be located with  
 15 fencing designed and constructed to prevent the escape of  
 16 the species of game farm animal kept on the game farm and to  
 17 prevent the entry of the same species of game animal or  
 18 other native big game species capable of interbreeding with  
 19 or contracting diseases or parasites from game farm animals;

20 (b) the application is for a single location;

21 (c) it is demonstrated that the applicant or the  
 22 applicant's principal manager has the necessary skills to  
 23 properly care for game farm animals or intends to employ a  
 24 person who has those necessary skills; and

25 (d) the application has not been denied under this

section or issued with stipulations under subsection (3).

(3) An application for a game farm license may be denied in its entirety or issued with stipulations if necessary to prevent public safety hazards or significant negative impacts to Montana's wildlife resources. Denial of an application or stipulations attached to a game farm license must be based on one or more of the following potential impacts ascribed to the physical location of the proposed game farm:

(a) substantial loss or destruction of critical seasonal big game habitat or habitat of federally designated threatened or endangered species under the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq., including but not limited to traditional breeding, birthing, rearing, and wintering areas;

(b) blockage or disruption of major traditional seasonal migration corridors or major travel routes;

(c) unacceptable threat of introduction or transmission of serious diseases or parasites to native wildlife populations, as determined by the state veterinarian appointed pursuant to 81-1-301;

(d) unacceptable threat of escape of captive game farm animals and establishment of feral populations that would result in habitat damage or competition with or genetic pollution of native wildlife populations;

(e) the creation of a significant threat to the safety of the general public and surrounding landowners by the shooting of game farm animals.

(4) If the department determines that it will propose, within the time allowed under 87-4-409(3), to deny a game farm license or issue a license with stipulations, the applicant must be given an opportunity to make changes to the application within 30 days of receipt of the department's written determination in order to mitigate or correct any problems or deficiencies. The department shall reconsider the application with the proposed changes within 30 days of receipt of changes to the application before granting, proposing to deny, or proposing to issue the license with stipulations.

(5) An applicant may request that the commission review a department proposal to deny a game farm license or to issue a license with stipulations by petitioning the commission for review within 10 days of the department's proposed decision. The commission shall decide whether to grant the license, propose to deny the license, or issue the license with stipulations. The commission's decision then becomes the department's proposed decision, subject to an opportunity for hearing under [section 15].

**Section 5.** Section 87-4-411, MCA, is amended to read:

**"87-4-411. License and renewal fees -- deposit of fees.**

(1) The department shall charge an initial game farm license fee of ~~\$100~~ \$200 and ~~for each year thereafter~~ shall charge an annual renewal fee of ~~\$25~~ \$50.

(2) The fees must be deposited in the state special revenue fund for the use of the department for purposes of this part."

**Section 6.** Section 87-4-412, MCA, is amended to read:

"87-4-412. ~~Term of license -- renewal -- nontransferability transferability.~~ (1) A game farm license expires on January 31 of the year succeeding the year of issuance. Application for renewal must be made before a license expires. The department shall renew the license upon payment of the renewal fee if the licensee has ~~not--violated any--provisions-under-which-the-license-was-granted~~ complied with all recording and reporting requirements.

(2) A game farm license is ~~nontransferable~~ transferable with the consent of the department. The department's consent must be given if:

(a) the transferee meets the requirements of [section 4(1)];

(b) the game farm and facilities are in compliance with requirements in place at the time the license was issued;

(c) the game farm is not under quarantine by the department of livestock;

(d) game farm animals to be transferred are not

prohibited under this part and department rules; and

(e) the transfer is not proposed as a means to evade a requirement imposed on the licensee."

**Section 7.** Section 87-4-414, MCA, is amended to read:

"87-4-414. ~~Game farm animals as private property -- source.~~ (1) All game farm animals lawfully ~~raised~~ possessed on a licensed game farm are the private property ~~of-the~~ for which the licensee is responsible as provided by law.

(2) The licensee may acquire, breed, grow, keep, pursue, capture, ~~kill~~ harvest, use, sell, or dispose of the game farm animals and their progeny in any quantity, ~~and at any time of year, and in any--manner,~~ as long as ~~he~~ the licensee complies with the requirements of this part.

(3) A licensee shall mark each game farm animal in a manner approved by the department of livestock ~~and the department that facilitates~~ indicates ownership and provides individual identification of animals for inspection, transportation, reporting, and taxation purposes.

(4) ~~Before allowing hunting of any game farm animals on a game farm, the game farm licensee must obtain a game--farm shooting license from the department.~~ Game farm animals must be lawfully acquired by the licensee.

(5) Except for importation permits and health certificates required under 81-2-703, laws applicable to game animals do not apply to game farm animals raised on a

1 licensed game farm."

2 **Section 8.** Section 87-4-415, MCA, is amended to read:

3 "87-4-415. Transportation and sale of game farm animals  
4 -- quarantine. (1) Whenever the licensee of a licensed game  
5 farm sells or disposes of one or more game farm animals, he  
6 shall, at the same time, deliver to the recipient or  
7 otherwise cause to accompany each game farm animal or  
8 animals an invoice or bill of sale signed by the licensee or  
9 his agent stating the number of the game farm license, the  
10 date of acquisition or disposition, the species, the age,  
11 sex, and class of game animals disposed of, and the name and  
12 address of the transferee. This invoice or bill of sale,  
13 along with any required health certifications, authorizes  
14 transportation of the game farm animal or animals being  
15 sold, transferred, or disposed of.

16 (2) Within 10 days after movement or sale, the licensee  
17 or his agent shall mail postpaid a duplicate of the invoice  
18 or bill of sale to the department of livestock and the  
19 department. Prior to selling, transferring, transporting, or  
20 disposing of one or more game farm animals, the game farm  
21 licensee shall contact the department of livestock to  
22 request an inspection by a department of livestock stock  
23 inspector for all game farm animals except carnivores and  
24 omnivores. In the case of carnivores and omnivores, the game  
25 farm licensee shall contact the department to request an

1 inspection by a department official. This section applies to  
2 all game farm animals, whether alive or dead.

3 (2) (a) Inspection under subsection (1) must include  
4 examination of the game farm animal and all marks, tags, and  
5 tattoos to identify ownership prior to issuance of a  
6 certificate of inspection.

7 (b) A certificate of inspection must be made in  
8 triplicate and must specify:

9 (i) the date of inspection;

10 (ii) the place of origin and destination of the  
11 shipment;

12 (iii) the name and address of the owner of the game farm  
13 animals and of the purchaser or transferee;

14 (iv) the number, species, age, and sex of game farm  
15 animals transported or disposed of;

16 (v) ear tag numbers and tattoos on each animal; and

17 (vi) any other information that the department of  
18 livestock may require.

19 (c) A copy of the certificate must be:

20 (i) retained by the inspector;

21 (ii) furnished by the inspector to the owner or shipper  
22 of the game farm animals, to accompany the animals to their  
23 destination;

24 (iii) filed by the inspector with the department of  
25 livestock within 5 days of inspection; and

1 (iv) provided by the department of livestock to the  
2 department within 10 days of inspection.

3 (3) The department of livestock may quarantine any game  
4 farm animal pending inspection and health certification. The  
5 department shall advise the department of livestock  
6 regarding the importation or transportation of any game farm  
7 animal that the department reasonably believes may be  
8 infected with a disease specific to wildlife."

9 **Section 9.** Section 87-4-416, MCA, is amended to read:

10 "87-4-416. Sale of game parts, meats, and byproducts.

11 (1) A game farm licensee may sell or otherwise dispose of  
12 the carcass, parts, or byproducts of a properly identified  
13 game farm animal taken from a game farm, ~~only upon preparing~~  
14 ~~an invoice or bill of sale and attaching a~~ in accordance  
15 with the provisions of 87-4-415. A copy of ~~it~~ the  
16 certificate of inspection must be attached to the carcass or  
17 container ~~and keeping a copy for his records.~~ Upon the  
18 attaching of the ~~invoice or bill of sale~~ certificate of  
19 inspection, to the carcass, parts, or byproducts of the game  
20 farm animal, ~~the same~~ may be transported within the state to  
21 the transferee named on the ~~invoice or bill of sale~~  
22 certificate of inspection.

23 (2) The licensee may sell game farm animals for meat  
24 upon compliance with all applicable health laws."

25 **Section 10.** Section 87-4-417, MCA, is amended to read:

1 "87-4-417. Records and reporting. (1) Each game farm  
2 licensee shall keep and maintain for 3 years accurate  
3 written records of all purchases, transfers, and sales of  
4 game farm animals showing:

5 (a) the number of each species of game farm animal  
6 purchased by the game farm licensee and from whom purchased;

7 (b) the number of each species of game farm animal  
8 transferred or sold, the date of transfer or sale, and the  
9 name and address of the person to whom the transfer or sale  
10 was made; and

11 (c) individual identification of each game farm animal  
12 purchased, transferred, or sold.

13 (2) ~~On or before January 31~~ Within 2 weeks after  
14 January 1, April 1, and September 1 of each year, the game  
15 farm licensee shall file a report with the director, showing  
16 the number and species of game farm animals on hand as of  
17 January 1, April 1, and September 1 and the number and  
18 species of game farm animals bought or, sold, or propagated  
19 during the past-year reporting period."

20 **Section 11.** Section 87-4-422, MCA, is amended to read:

21 "87-4-422. Rulemaking. (1) The department may adopt and  
22 enforce ~~only such rules as that~~ are necessary to implement  
23 the provisions of this part and to coordinate regulation of  
24 game farms with the department of livestock.

25 (2) The rules may address but are not limited to the



classifying of cloven-hoofed ungulates, fencing requirements for facilities, reporting and recordkeeping requirements, transportation and importation, restrictions on importation, identification, sale of animal parts, and the care and maintenance of game farm animals, and game farm shooting licenses."

**NEW SECTION. Section 12. Revocation of license -- criteria -- penalties.** (1) The department may revoke any game farm license or impose any of the penalties or conditions specified in subsection (2) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate a game farm according to the provisions of this part, rules adopted under this part, or stipulations of the game farm license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of \$100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;

(e) negligent or willful misconduct of the game farm operation, including but not limited to the unauthorized egress and ingress of big game species or game farm animals that:

(i) threatens public safety;

(ii) endangers native big game populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the game farm animals of others;

(f) a material and willful falsification of any required game farm records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of a game farm;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other game farm animals and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the misconduct is repeated.

(3) If the department finds, after opportunity for a hearing required under [section 15], that a game farm licensee or the principal manager is responsible for any act or omission set out in subsection (1), the department may in its discretion impose any one or more of the following penalties upon the licensee:

(a) revocation of the game farm license for up to 5 years;

(b) imposition of a civil penalty not to exceed \$5,000, restoration of any damage to native wildlife, or both;

(c) deferral of the revocation of a license subject to the completion of or adherence to specified conditions; or

(d) reprimand of a licensee.

(4) In addition to the revocation of a license or other penalties allowed by this section, a person who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to criminal prosecution and a fine of not more than \$1,000, imprisonment in the county jail for not more than 1 year, or both. Any violation of 87-3-118 is subject to prosecution and penalties under that section.

**Section 13.** Section 87-4-423, MCA, is amended to read:

"87-4-423. Revocation of license -- penalty procedure -- disposition of animals. (1) A game farm license may be revoked for failure to operate the game farm according to the provisions of this part or rules adopted under this

part. Proceedings for the revocation of a license or the discipline of a licensee must be based on a determination by the department, after an investigation, that there is good cause and a sufficient factual basis to believe that the licensee or the principal manager is responsible for one or more of the acts or omissions set out in [section 12(1)].

(2) The department may initiate revocation or disciplinary proceedings against a licensee by specifying the grounds in writing to the licensee and providing an opportunity for a hearing as provided in [section 15].

(2)(3) Upon discovery of a violation of recordkeeping or reporting requirements that is not a material violation or an attempt to deceive, the department shall give notice of the violation to the licensee, with a statement that the violation must be corrected within 30 days of the notice, unless a longer period is approved by the department. Upon failure of the licensee to correct the violation, the department may institute revocation proceedings.

(3) Upon failure of the licensee to correct the violation, the department may institute revocation proceedings. If the department institutes revocation proceedings, it shall provide reasonable notice and opportunity for a hearing to the licensee. After hearing and upon proof of violation, the department may revoke the game farm license.

(4) (a) ~~In addition to the revocation of a license allowed by this section, a person who violates this part or a rule adopted under this part is subject to a fine of not more than \$500 or imprisonment in the county jail for not more than 1 year, or both.~~ A licensee whose license is revoked shall lawfully dispose of any game farm animal held pursuant to the license. Lawfully acquired and held game farm animals may be disposed of by the licensee within 180 days of the license revocation or within a longer period if specified by the department in the revocation order. After the expiration of this period, the department shall seize and dispose of any game farm animals that have not been lawfully disposed of by the licensee. Any proceeds that remain after deducting the department's expenses revert to the licensee. Any unrecovered costs may be charged to the licensee.

(b) The department, when it is determined to be necessary by the state veterinarian appointed pursuant to 81-1-301, may require that diseased or potentially diseased game farm animals be quarantined or destroyed.

**Section 14.** Section 87-4-424, MCA, is amended to read:

"87-4-424. Department restrictions on importation of certain species. The department or the department of livestock may restrict from importation for purposes of game farming any species or subspecies and their hybrids with

native species that are determined through scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution, habitat degradation or competition caused by feral populations of escaped game farm animals, parasites, or disease."

**NEW SECTION. Section 15.** Right to administrative hearing. (1) An applicant must be given notice and an opportunity for a hearing on a proposed denial or issuance with stipulations of a game farm license pursuant to [section 4] before the department may deny a license or grant a license with stipulations.

(2) A licensee must be given notice and an opportunity for a hearing before the department may refuse to renew a license, withhold consent to the transfer of a license, revoke a license, or discipline a licensee.

(3) The notice and an opportunity for a hearing and any judicial appeal must be conducted as provided in Title 2, chapter 4, parts 6 and 7.

**NEW SECTION. Section 16.** Repealer. Section 87-4-421, MCA, is repealed.

**NEW SECTION. Section 17.** Codification instruction. [Sections 4, 12, and 15] are intended to be codified as an integral part of Title 87, chapter 4, part 4, and the provisions of Title 87, chapter 4, part 4, apply to [sections 4, 12, and 15].

LC 0850/01

- 1     NEW SECTION.   **Section 18.**   Effective date. [This act] is
- 2     effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0338, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:** An act generally revising the laws relating to the licensing and operating of game farms; eliminating the game farm shooting license; revising definitions, penalties, application procedures, and licensing criteria related to game farm licensure; increasing the license fee; revising animal transportation and sales provisions; revising license revocation criteria and procedures; and expanding record keeping requirements, .

**ASSUMPTIONS:**

1. Joint rule making by the Department of Fish, Wildlife and Parks (FWP) and the Department of Livestock for transition into joint regulations of game farms, requiring 0.60 FTE, grade 16, at FWP in FY94 only.
2. Twenty-four (24) applications will be received annually with two requiring EIS documentation for MEPA compliance, requiring 0.38 FTE, grade 15, at FWP.
3. Application review will require 4 hours per application, requiring 0.05 FTE, grade 14, at FWP.
4. An equivalent of one FWP field warden FTE and related operation dollars will be required to enforce game farm regulations and to ensure that wild animals are not being trapped by game farm owners. This will be handled through redirection of existing workforce.
5. The Department of Livestock's role with regard to quarantines, inspection, and identification of game farm animals will continue.

**FISCAL IMPACT:****Expenditures:**

	<u>FY94</u>	<u>FY95</u>
FTE	1.03	0.43
Personal Services	\$35,753	\$14,089
Operations	<u>9,600</u>	<u>4,800</u>
Total	\$45,353	\$18,889

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<b>Revenues:</b>						
Initial game farm license fee	\$2,400	\$4,800	\$2,400	\$2,400	\$4,800	\$2,400
Annual renewal fee	<u>2,550</u>	<u>5,100</u>	<u>2,550</u>	<u>3,150</u>	<u>6,300</u>	<u>3,150</u>
Total	\$4,950	\$9,900	\$4,950	\$5,550	\$11,100	\$5,550

**Net Impact:** The Department of Fish, Wildlife and Parks will incur a net cost of \$40,403 in FY94 and \$13,339 in FY95. The fiscal impact to the Department of Livestock will be minimal.

*David Lewis* 2.1.93

DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

*Bob Ream* 2/93

ROBERT R. REAM, PRIMARY SPONSOR DATE

Fiscal Note for HB0338, as introduced

**HB 338**

APPROVED BY COMM.  
ON FISH AND GAME

HOUSE BILL NO. 338  
INTRODUCED BY REAM, FORRESTER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE LICENSING AND OPERATION OF GAME FARMS; ELIMINATING THE GAME FARM SHOOTING LICENSE; REVISING DEFINITIONS, PENALTIES, APPLICATION PROCEDURES, AND LICENSING CRITERIA RELATED TO GAME FARM LICENSURE; INCREASING THE LICENSE FEE; REVISING ANIMAL TRANSPORTATION AND SALE PROVISIONS; REVISING LICENSE REVOCATION CRITERIA AND PROCEDURES; EXPANDING RECORDKEEPING REQUIREMENTS; AMENDING SECTIONS 87-4-406, 87-4-407, 87-4-409, 87-4-411, 87-4-412, 87-4-414, 87-4-415, 87-4-416, 87-4-417, 87-4-422, 87-4-423, AND 87-4-424, MCA; REPEALING SECTION 87-4-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-4-406, MCA, is amended to read:

"87-4-406. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of fish, wildlife, and parks.

(2) "Facilities" means perimeter fences and other enclosures that provide for the confinement, handling, and quarantine of game farm animals.

{2}{3} "Game animals" means game animals as defined in 87-2-101 that are not the lawful property of any private person.

{3}{4} "Game farm" means the enclosed land area upon which game farm animals may be kept for purposes of obtaining, rearing in captivity, keeping, and OR selling game farm animals or parts of game farm animals, as authorized under this part.

{4}{5} "Game farm animal" means a privately owned caribou, black bear, mountain lion, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana or any other cloven-hoofed ungulate as classified by the department.

{5}--"Game-farm--shooting--license"--means--the--license required-under-87-4-421-for-a-game-farm-operator-to-hunt-the game--farm-animals-indigenous-to-the-state-of-Montana-on-his game-farm:

(6) "Person" means an individual, firm, corporation, association, or partnership."

**Section 2.** Section 87-4-407, MCA, is amended to read:

"87-4-407. License required -- penalty -- seizure of illegally possessed animals. (1) No A person may not operate a game farm in this state without first obtaining a game farm license from the department.

(2) A person who operates a game farm without a license

1 or possesses, transports, buys, or sells animals whose  
 2 importation into the state is restricted pursuant to  
 3 87-4-424 is guilty of a misdemeanor and is subject to the  
 4 penalties provided in [section 12(4)].

5 (3) Any animal held in violation of subsection (2) or  
 6 otherwise illegally possessed may be immediately seized by  
 7 the department and is subject to disposal by the department.  
 8 Costs of seizure may be charged to the person in possession  
 9 of the animal."

10 **Section 3.** Section 87-4-409, MCA, is amended to read:

11 **"87-4-409. Application for license -- limitations on**  
 12 **issuance. (1) Any A** person desiring to obtain a game farm  
 13 license shall make written application to the department on  
 14 forms provided by the department. The application shall  
 15 specify:

16 (a) the applicant's name;

17 (b) the applicant's address;

18 (c) the name and address of the individual who will be  
 19 the principal manager of the game farm;

20 (d) the exact legal description of the land upon which  
 21 the game farm is to be located, together with the nature of  
 22 the applicant's title thereto to the land, whether in fee,  
 23 under lease, by contract for deed, or otherwise;

24 (d)(e) the species of game farm animals proposed to be  
 25 kept or reared on the game farm;

1 (e)(f) the type of fencing facilities contemplated and  
 2 the location of perimeter fencing;

3 (f)(g) the source from which the applicant intends to  
 4 acquire the game animals;

5 (g)(h) if the applicant is not a Montana resident, the  
 6 name and address of a Montana resident designated by the  
 7 applicant as his the applicant's local agent;

8 (h)(i) if the applicant is a corporation, the full  
 9 names and addresses of all stockholders owning more than 10%  
 10 of the stock in the corporation; and

11 (i)(j) information demonstrating that the applicant is  
 12 responsible.

13 (2) ~~A game farm license shall be issued only to a~~  
 14 ~~responsible applicant who owns or leases the premises on~~  
 15 ~~which the operations are to be conducted and who has~~  
 16 ~~properly fenced the land upon which the game farm is to be~~  
 17 ~~located. The fencing must be designed and constructed to~~  
 18 ~~prevent the escape of the species of game farm animals kept~~  
 19 ~~on the land and to prevent the entry of the same species of~~  
 20 ~~game animals. Within 30 days of receipt of an application,~~  
 21 the department shall notify the applicant in writing whether  
 22 the application:

23 (a) is in compliance and is accepted as complete; or

24 (b) is not in compliance and shall list any  
 25 deficiencies that must be corrected before the application

1 is in compliance. The department shall return any  
 2 noncomplying application to the applicant, who may resubmit  
 3 the application upon correction of the deficiencies.

4 (3) Within ~~60~~ 120 days of receiving the acceptance of a  
 5 complete application, the department shall notify the  
 6 applicant of its proposed decision to approve, approve with  
 7 stipulations, or deny the application. If the department  
 8 determines that the preparation of an environmental impact  
 9 statement is required by Title 75, chapter 1, and by  
 10 department rules adopted pursuant to the Montana  
 11 Environmental Policy Act, then the department has an  
 12 additional 180 days to act on the completed application. If  
 13 required fencing has not been completed, the department  
 14 shall approve the application subject to completion and  
 15 approval of the fencing. If the application is denied or  
 16 approved with stipulations, the department shall specify the  
 17 reasons for denial or stipulations."

18 NEW SECTION. Section 4. Criteria for issuance of  
 19 license -- fencing and enclosure requirements. (1) A game  
 20 farm license may be issued by the department only to an  
 21 applicant:

22 (a) who owns or leases the premises on which the  
 23 operations are to be conducted;

24 (b) who has not been or whose principal manager has not  
 25 been convicted of or who has not forfeited bond of \$100 or

1 more for more than one violation of the fish and game laws  
 2 or applicable regulations of any state or the United States  
 3 within a 5-year period prior to application;

4 (c) who has not or whose principal manager has not at  
 5 any time pleaded guilty to or been convicted of a felony,  
 6 unless civil rights have been restored pursuant to law. A  
 7 person may not apply for licensure during any time in which  
 8 a deferred or suspended felony sentence is in effect.

9 (d) who is or whose principal manager is at least 18  
 10 years of age.

11 (2) A game farm license must be issued by the  
 12 department if:

13 (a) the applicant has properly fenced the perimeter of  
 14 the land upon which the game farm is to be located with  
 15 fencing designed and constructed to prevent the escape of  
 16 the species of game farm animal kept on the game farm and to  
 17 prevent the entry of the same species of game animal or  
 18 other native big game ANIMAL species capable of  
 19 interbreeding with or contracting diseases or parasites from  
 20 game farm animals;

21 (b) the application is for a single location;

22 (c) it is demonstrated that the applicant or the  
 23 applicant's principal manager has the necessary skills to  
 24 properly care for game farm animals or intends to employ a  
 25 person who has those necessary skills; and



(d) the application has not been denied under this section or issued with stipulations under subsection (3).

(3) An application for a game farm license may be denied in its entirety or issued with stipulations if necessary to prevent public safety hazards or significant negative impacts to Montana's wildlife resources. Denial of an application or stipulations attached to a game farm license must be based on one or more of the following potential impacts ascribed to the physical location of the proposed game farm:

(a) substantial loss or destruction of critical seasonal big game ANIMAL habitat or habitat of federally designated threatened or endangered species under the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq., including but not limited to traditional breeding, birthing, rearing, and wintering areas;

(b) blockage or disruption of major traditional seasonal migration corridors or major travel routes;

(c) unacceptable threat of introduction or transmission of serious diseases or parasites to native wildlife populations, as determined by the state veterinarian appointed pursuant to 81-1-301;

(d) unacceptable threat of escape of captive game farm animals and establishment of feral populations that would result in habitat damage or competition with or genetic

pollution of native wildlife populations;

(e) the creation of a significant threat to the safety of the general public and surrounding landowners by the shooting of game farm animals.

(4) If the department determines that it will propose, within the time allowed under 87-4-409(3), to deny a game farm license or issue a license with stipulations, the applicant must be given an opportunity to make changes to the application within 30 days of receipt of the department's written determination in order to mitigate or correct any problems or deficiencies. The department shall reconsider the application with the proposed changes within 30 days of receipt of changes to the application before granting, proposing to deny, or proposing to issue the license with stipulations.

(5) An applicant may request that the commission review a department proposal to deny a game farm license or to issue a license with stipulations by petitioning the commission for review within 10 days of the department's proposed decision. The commission shall decide whether to grant the license, propose to deny the license, or issue the license with stipulations. The commission's decision then becomes the department's proposed decision, subject to an opportunity for hearing under [section 15].

**Section 5.** Section 87-4-411, MCA, is amended to read:

1       "87-4-411. License and renewal fees -- deposit of fees.  
2       (1) The department shall charge an initial game farm license  
3       fee of ~~\$100~~ \$200 and for each year thereafter shall charge  
4       an annual renewal fee of ~~\$25~~ \$50.

5       (2) The fees must be deposited in the state special  
6       revenue fund for the use of the department for purposes of  
7       this part."

8       **Section 6.** Section 87-4-412, MCA, is amended to read:

9       "87-4-412. Term of license -- renewal --  
10       ~~nontransferability~~ transferability. (1) A game farm license  
11       expires on January 31 of the year succeeding the year of  
12       issuance. Application for renewal must be made before a  
13       license expires. The department shall renew the license upon  
14       payment of the renewal fee if the licensee has ~~not violated~~  
15       ~~any provisions under which the license was granted~~ complied  
16       with all recording and reporting requirements.

17       (2) A game farm license FOR A SPECIFIC FACILITY is  
18       ~~nontransferable~~ transferable with the consent of the  
19       department. The department's consent must be given if:

20       (a) the transferee meets the requirements of [section  
21       4(1)];

22       (b) the game farm and facilities are in compliance with  
23       requirements in place at the time the license was issued;

24       (c) the game farm is not under quarantine by the  
25       department of livestock;

1       (d) game farm animals to be transferred are not  
2       prohibited under this part and department rules; and

3       (e) the transfer is not proposed as a means to evade a  
4       requirement imposed on the licensee."

5       **Section 7.** Section 87-4-414, MCA, is amended to read:

6       "87-4-414. Game farm animals as private property --  
7       source. (1) All game farm animals lawfully raised possessed  
8       on a licensed game farm are the private property of the for  
9       which the licensee is responsible as provided by law.

10       (2) The licensee may acquire, breed, grow, keep,  
11       pursue, capture, ~~kill~~ harvest, use, sell, or dispose of the  
12       game farm animals and their progeny in any quantity, and at  
13       any time of year, ~~and in any manner,~~ as long as he the  
14       licensee complies with the requirements of this part.

15       (3) A licensee shall mark each game farm animal in a  
16       manner approved by the department of livestock and the  
17       department that ~~facilitates~~ indicates ownership and provides  
18       individual identification of animals for inspection,  
19       transportation, reporting, and taxation purposes.

20       (4) ~~Before allowing hunting of any game farm animals on~~  
21       ~~a game farm, the game farm licensee must obtain a game farm~~  
22       ~~shooting license from the department.~~ Game farm animals must  
23       be lawfully acquired by the licensee.

24       (5) Except for importation permits and health  
25       certificates required under 81-2-703, laws applicable to

game animals do not apply to game farm animals raised on a licensed game farm."

**Section 8.** Section 87-4-415, MCA, is amended to read:

"87-4-415. Transportation and sale of game farm animals -- quarantine. (1) Whenever the licensee of a licensed game farm sells or disposes of one or more game farm animals, he shall, at the same time, deliver to the recipient or otherwise cause to accompany each game farm animal or animals an invoice or bill of sale signed by the licensee or his agent stating the number of the game farm license, the date of acquisition or disposition, the species, the age, sex, and class of game animals disposed of, and the name and address of the transferee. This invoice or bill of sale, along with any required health certifications, authorizes transportation of the game farm animal or animals being sold, transferred, or disposed of.

(2) Within 10 days after movement or sale, the licensee or his agent shall mail postpaid a duplicate of the invoice or bill of sale to the department of livestock and the department. Prior to selling, transferring, transporting, or disposing of one or more game farm animals, the game farm licensee shall contact the department of livestock to request an inspection by a department of livestock stock inspector for all game farm animals except carnivores and omnivores. In the case of carnivores and omnivores, the game

farm licensee shall contact the department to request an inspection by a department official. This section applies to all game farm animals, whether alive or dead.

(2) (a) Inspection under subsection (1) must include examination of the game farm animal and all marks, tags, and tattoos to identify ownership prior to issuance of a certificate of inspection.

(b) A certificate of inspection must be made in triplicate and must specify:

(i) the date of inspection;

(ii) the place of origin and destination of the shipment;

(iii) the name and address of the owner of the game farm animals and of the purchaser or transferee;

(iv) the number, species, age, and sex of game farm animals transported or disposed of;

(v) ear tag numbers and tattoos on each animal; and

(vi) any other information that the department of livestock may require.

(c) A copy of the certificate must be:

(i) retained by the inspector;

(ii) furnished by the inspector to the owner or shipper of the game farm animals, to accompany the animals to their destination;

(iii) filed by the inspector with the department of

1 livestock within 5 days of inspection; and

2 (iv) provided by the department of livestock to the  
3 department within 10 days of inspection.

4 (3) The department of livestock may quarantine any game  
5 farm animal pending inspection and health certification. The  
6 department shall advise the department of livestock  
7 regarding the importation or transportation of any game farm  
8 animal that the department reasonably believes may be  
9 infected with a disease specific to wildlife."

10 **Section 9.** Section 87-4-416, MCA, is amended to read:

11 "87-4-416. Sale of game parts, meats, and byproducts.

12 (1) A game farm licensee may sell or otherwise dispose of  
13 the carcass, parts, or byproducts of a properly identified  
14 game farm animal taken from a game farm, ~~only upon preparing~~  
15 ~~an invoice or bill of sale and attaching a~~ in accordance  
16 with the provisions of 87-4-415. A copy of it the  
17 certificate of inspection must be attached to the carcass or  
18 ~~container and keeping a copy for his records.~~ Upon the  
19 attaching of the ~~invoice or bill of sale~~ certificate of  
20 inspection, to the carcass, parts, or byproducts of the game  
21 farm animal, ~~the same~~ may be transported within the state to  
22 the transferee named on the ~~invoice or bill of sale~~  
23 certificate of inspection.

24 (2) The licensee may sell game farm animals for meat  
25 upon compliance with all applicable health laws."

1 **Section 10.** Section 87-4-417, MCA, is amended to read:

2 "87-4-417. Records and reporting. (1) Each game farm  
3 licensee shall keep and maintain for 3 years accurate  
4 written records of all purchases, transfers, and sales of  
5 game farm animals showing:

6 (a) the number of each species of game farm animal  
7 purchased by the game farm licensee and from whom purchased;

8 (b) the number of each species of game farm animal  
9 transferred or sold, the date of transfer or sale, and the  
10 name and address of the person to whom the transfer or sale  
11 was made; and

12 (c) individual identification of each game farm animal  
13 purchased, transferred, or sold.

14 (2) ~~On or before January 31~~ Within 2 weeks after  
15 January 1, April 1, and September 1 of each year, the game  
16 farm licensee shall file a report with the director, showing  
17 the number and species of game farm animals on hand as of  
18 January 1, April 1, and September 1 and the number and  
19 species of game farm animals bought or, sold, or propagated  
20 during the past-year reporting period."

21 **Section 11.** Section 87-4-422, MCA, is amended to read:

22 "87-4-422. Rulemaking. (1) The department may adopt and  
23 enforce ~~only such rules as~~ that are necessary to implement  
24 the provisions of this part and to coordinate regulation of  
25 game farms with the department of livestock.

(2) The rules may address but are not limited to the classifying of cloven-hoofed ungulates, fencing requirements for facilities, reporting and recordkeeping requirements, transportation and importation, restrictions on importation, identification, sale of animal parts, and the care and maintenance of game farm animals; ~~and game farm shooting licenses.~~"

**NEW SECTION. Section 12. Revocation of license -- criteria -- penalties.** (1) The department may revoke any game farm license or impose any of the penalties or conditions specified in subsection (2) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate a game farm according to the provisions of this part, rules adopted under this part, or stipulations of the game farm license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of \$100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the

preceding 5 years;

(e) negligent or willful misconduct of the game farm operation, including but not limited to the unauthorized egress and ingress of big game ANIMAL species or game farm animals that:

(i) threatens public safety;

(ii) endangers native big game ANIMAL populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the game farm animals of others;

(f) a material and willful falsification of any required game farm records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of a game farm;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other game farm animals and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial

1 notice or if the misconduct is repeated.

2 (3) If the department finds, after opportunity for a  
3 hearing required under [section 15], that a game farm  
4 licensee or the principal manager is responsible for any act  
5 or omission set out in subsection (1), the department may in  
6 its discretion impose any one or more of the following  
7 penalties upon the licensee:

8 (a) revocation of the game farm license for up to 5  
9 years;

10 (b) imposition of a civil penalty not to exceed \$5,000,  
11 restoration of any damage to native wildlife, or both;

12 (c) deferral of the revocation of a license subject to  
13 the completion of or adherence to specified conditions; or

14 (d) reprimand of a licensee.

15 (4) In addition to the revocation of a license or other  
16 penalties allowed by this section, a person who purposely or  
17 knowingly violates this part or a rule adopted pursuant to  
18 this part is subject to criminal prosecution and a fine of  
19 not more than \$1,000, imprisonment in the county jail for  
20 not more than 1 year, or both. Any violation of 87-3-118 is  
21 subject to prosecution and penalties under that section.

22 **Section 13.** Section 87-4-423, MCA, is amended to read:

23 "87-4-423. Revocation of license -- penalty procedure  
24 -- disposition of animals. (1) A game farm license may be  
25 revoked for failure to operate the game farm according to

1 the provisions of this part or rules adopted under this  
2 part. Proceedings for the revocation of a license or the  
3 discipline of a licensee must be based on a determination by  
4 the department, after an investigation, that there is good  
5 cause and a sufficient factual basis to believe that the  
6 licensee or the principal manager is responsible for one or  
7 more of the acts or omissions set out in [section 12(1)].

8 (2) The department may initiate revocation or  
9 disciplinary proceedings against a licensee by specifying  
10 the grounds in writing to the licensee and providing an  
11 opportunity for a hearing as provided in [section 15].

12 (3) Upon discovery of a violation of recordkeeping  
13 or reporting requirements that is not a material violation  
14 or an attempt to deceive, the department shall give notice  
15 of the violation to the licensee, with a statement that the  
16 violation must be corrected within 30 days of the notice,  
17 unless a longer period is approved by the department. Upon  
18 failure of the licensee to correct the violation, the  
19 department may institute revocation proceedings.

20 (3) Upon failure of the licensee to correct the  
21 violation, the department may institute revocation  
22 proceedings; if the department institutes revocation  
23 proceedings, it shall provide reasonable notice and  
24 opportunity for a hearing to the licensee. After hearing and  
25 upon proof of violation, the department may revoke the game

1 farm-licensee.

2 (4) (a) ~~in--addition--to--the--revocation--of--a--license~~  
 3 ~~allowed-by-this-section,--a--person--who--violates--this--part--or~~  
 4 ~~a--rule--adopted-under-this-part-is-subject-to-a-fine-of-not~~  
 5 ~~more-than-\$500-or-imprisonment-in-the-county--jail--for--not~~  
 6 ~~more--than--1--year,--or--both.~~ A licensee whose license is  
 7 revoked shall lawfully dispose of any game farm animal held  
 8 pursuant to the license. Lawfully acquired and held game  
 9 farm animals may be disposed of by the licensee within 180  
 10 days of the license revocation or within a longer period if  
 11 specified by the department in the revocation order. After  
 12 the expiration of this period, the department shall seize  
 13 and dispose of any game farm animals that have not been  
 14 lawfully disposed of by the licensee. Any proceeds that  
 15 remain after deducting the department's expenses revert to  
 16 the licensee. Any unrecovered costs may be charged to the  
 17 licensee.

18 (b) The department, when it is determined to be  
 19 necessary by the state veterinarian appointed pursuant to  
 20 81-1-301, may require that diseased or potentially diseased  
 21 game farm animals be quarantined or destroyed."

22 **Section 14.** Section 87-4-424, MCA, is amended to read:

23 "87-4-424. Department restrictions on importation of  
 24 certain species. The department or the department of  
 25 livestock may restrict from importation for purposes of game

1 farming any species or subspecies and their hybrids with  
 2 native species that are determined through scientific  
 3 investigation to pose a threat to native wildlife or  
 4 livestock through nonspecific genetic dilution, habitat  
 5 degradation or competition caused by feral populations of  
 6 escaped game farm animals, parasites, or disease."

7 **NEW SECTION. Section 15.** Right to administrative  
 8 hearing. (1) An applicant must be given notice and an  
 9 opportunity for a hearing on a proposed denial or issuance  
 10 with stipulations of a game farm license pursuant to  
 11 [section 4] before the department may deny a license or  
 12 grant a license with stipulations.

13 (2) A licensee must be given notice and an opportunity  
 14 for a hearing before the department may refuse to renew a  
 15 license, withhold consent to the transfer of a license,  
 16 revoke a license, or discipline a licensee.

17 (3) The notice and an opportunity for a hearing and any  
 18 judicial appeal must be conducted as provided in Title 2,  
 19 chapter 4, parts 6 and 7.

20 **NEW SECTION. Section 16.** Repealer. Section 87-4-421,  
 21 MCA, is repealed.

22 **NEW SECTION. Section 17.** Codification instruction.  
 23 [Sections 4, 12, and 15] are intended to be codified as an  
 24 integral part of Title 87, chapter 4, part 4, and the  
 25 provisions of Title 87, chapter 4, part 4, apply to

1 {sections 4, 12, and 15}.

2 NEW SECTION. **Section 18.** Effective date. {This act} is

3 effective on passage and approval.

-End-



## HOUSE BILL NO. 338

INTRODUCED BY REAM, FORRESTER

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(3) "Game animals" means game animals as defined in 87-2-101 that are not the lawful property of any private person.

(4) "Game farm" means the enclosed land area upon which game farm animals may be kept for purposes of obtaining, rearing in captivity, keeping, and OR selling game farm animals or parts of game farm animals, as authorized under this part.

(5) "Game farm animal" means a privately owned caribou, black bear, mountain lion, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana or any other cloven-hoofed ungulate as classified by the department.

~~(5) "Game farm shooting license" means the license required under 87-4-421 for a game farm operator to hunt the game farm animals indigenous to the state of Montana on his game farm.~~

(6) "Person" means an individual, firm, corporation,

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-4-406, MCA, is amended to read:

"87-4-406. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of fish, wildlife, and parks.

(2) "Facilities" means perimeter fences and other enclosures that provide for the confinement, handling, and quarantine of game farm animals.

{2}(3) "Game animals" means game animals as defined in 87-2-101 that are not the lawful property of any private person.

{3}(4) "Game farm" means the enclosed land area upon which game farm animals may be kept for purposes of obtaining, rearing in captivity, keeping, and OR selling game farm animals or parts of game farm animals, as authorized under this part.

{4}(5) "Game farm animal" means a privately owned caribou, black bear, mountain lion, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana or any other cloven-hoofed ungulate as classified by the department.

{5}--"Game-farm--shooting--license"--means--the--license required-under-87-4-421-for-a-game-farm-operator-to-hunt-the game--farm-animals-indigenous-to-the-state-of-Montana-on-his game-farm:

(6) "Person" means an individual, firm, corporation, association, or partnership."

**Section 2.** Section 87-4-407, MCA, is amended to read:

"87-4-407. License required -- penalty -- seizure of illegally possessed animals. (1) No A person may not operate a game farm in this state without first obtaining a game farm license from the department.

(2) A person who operates a game farm without a license

1 or possesses, transports, buys, or sells animals whose  
 2 importation into the state is restricted pursuant to  
 3 87-4-424 is guilty of a misdemeanor and is subject to the  
 4 penalties provided in [section 12(4)].

5 (3) Any animal held in violation of subsection (2) or  
 6 otherwise illegally possessed may be immediately seized by  
 7 the department and is subject to disposal by the department.  
 8 Costs of seizure may be charged to the person in possession  
 9 of the animal."

10 **Section 3.** Section 87-4-409, MCA, is amended to read:

11 **"87-4-409. Application for license -- limitations on**  
 12 **issuance. (1) Any A person desiring to obtain a game farm**  
 13 **license shall make written application to the department on**  
 14 **forms provided by the department. The application shall**  
 15 **specify:**

16 (a) the applicant's name;

17 (b) the applicant's address;

18 (c) the name and address of the individual who will be  
 19 the principal manager of the game farm;

20 (d) the exact legal description of the land upon which  
 21 the game farm is to be located, together with the nature of  
 22 the applicant's title thereto to the land, whether in fee,  
 23 under lease, by contract for deed, or otherwise;

24 (d)(e) the species of game farm animals proposed to be  
 25 kept or reared on the game farm;

1 (e)(f) the type of fencing facilities contemplated and  
 2 the location of perimeter fencing;

3 (f)(g) the source from which the applicant intends to  
 4 acquire the game animals;

5 (g)(h) if the applicant is not a Montana resident, the  
 6 name and address of a Montana resident designated by the  
 7 applicant as his the applicant's local agent;

8 (h)(i) if the applicant is a corporation, the full  
 9 names and addresses of all stockholders owning more than 10%  
 10 of the stock in the corporation; and

11 (i)(j) information demonstrating that the applicant is  
 12 responsible.

13 (2) A game farm license shall be issued only to a  
 14 responsible applicant who owns or leases the premises on  
 15 which the operations are to be conducted and who has  
 16 properly fenced the land upon which the game farm is to be  
 17 located. The fencing must be designed and constructed to  
 18 prevent the escape of the species of game farm animals kept  
 19 on the land and to prevent the entry of the same species of  
 20 game animals. Within 30 days of receipt of an application,  
 21 the department shall notify the applicant in writing whether  
 22 the application:

23 (a) is in compliance and is accepted as complete; or

24 (b) is not in compliance and shall list any  
 25 deficiencies that must be corrected before the application

1 is in compliance. The department shall return any  
 2 noncomplying application to the applicant, who may resubmit  
 3 the application upon correction of the deficiencies.

4 (3) Within ~~60~~ 120 days of receiving the acceptance of a  
 5 complete application, the department shall notify the  
 6 applicant of its proposed decision to approve, approve with  
 7 stipulations, or deny the application. If the department  
 8 determines that the preparation of an environmental impact  
 9 statement is required by Title 75, chapter 1, and by  
 10 department rules adopted pursuant to the Montana  
 11 Environmental Policy Act, then the department has an  
 12 additional 180 days to act on the completed application. If  
 13 required fencing has not been completed, the department  
 14 shall approve the application subject to completion and  
 15 approval of the fencing. If the application is denied or  
 16 approved with stipulations, the department shall specify the  
 17 reasons for denial or stipulations."

18 NEW SECTION. Section 4. Criteria for issuance of  
 19 license -- fencing and enclosure requirements. (1) A game  
 20 farm license may be issued by the department only to an  
 21 applicant:

22 (a) who owns or leases the premises on which the  
 23 operations are to be conducted;

24 (b) who has not been or whose principal manager has not  
 25 been convicted of or who has not forfeited bond of \$100 or

1 more for more than one violation of the fish and game laws  
 2 or applicable regulations of any state or the United States  
 3 within a 5-year period prior to application;

4 (c) who has not or whose principal manager has not at  
 5 any time pleaded guilty to or been convicted of a felony,  
 6 unless civil rights have been restored pursuant to law. A  
 7 person may not apply for licensure during any time in which  
 8 a deferred or suspended felony sentence is in effect.

9 (d) who is or whose principal manager is at least 18  
 10 years of age.

11 (2) A game farm license must be issued by the  
 12 department if:

13 (a) the applicant has properly fenced the perimeter of  
 14 the land upon which the game farm is to be located with  
 15 fencing designed and constructed to prevent the escape of  
 16 the species of game farm animal kept on the game farm and to  
 17 prevent the entry of the same species of game animal or  
 18 other native ~~big~~ game ANIMAL species capable of  
 19 interbreeding with or contracting diseases or parasites from  
 20 game farm animals;

21 (b) the application is for a single location;

22 (c) it is demonstrated that the applicant or the  
 23 applicant's principal manager has the necessary skills to  
 24 properly care for game farm animals or intends to employ a  
 25 person who has those necessary skills; and

(d) the application has not been denied under this section or issued with stipulations under subsection (3).

(3) An application for a game farm license may be denied in its entirety or issued with stipulations if necessary to prevent public safety hazards or significant negative impacts to Montana's wildlife resources. Denial of an application or stipulations attached to a game farm license must be based on one or more of the following potential impacts ascribed to the physical location of the proposed game farm:

(a) substantial loss or destruction of critical seasonal big game ANIMAL habitat or habitat of federally designated threatened or endangered species under the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq., including but not limited to traditional breeding, birthing, rearing, and wintering areas;

(b) blockage or disruption of major traditional seasonal migration corridors or major travel routes;

(c) unacceptable threat of introduction or transmission of serious diseases or parasites to native wildlife populations, as determined by the state veterinarian appointed pursuant to 81-1-301;

(d) unacceptable threat of escape of captive game farm animals and establishment of feral populations that would result in habitat damage or competition with or genetic

pollution of native wildlife populations;

(e) the creation of a significant threat to the safety of the general public and surrounding landowners by the shooting of game farm animals.

(4) If the department determines that it will propose, within the time allowed under 87-4-409(3), to deny a game farm license or issue a license with stipulations, the applicant must be given an opportunity to make changes to the application within 30 days of receipt of the department's written determination in order to mitigate or correct any problems or deficiencies. The department shall reconsider the application with the proposed changes within 30 days of receipt of changes to the application before granting, proposing to deny, or proposing to issue the license with stipulations.

(5) An applicant may request that the commission review a department proposal to deny a game farm license or to issue a license with stipulations by petitioning the commission for review within 10 days of the department's proposed decision. The commission shall decide whether to grant the license, propose to deny the license, or issue the license with stipulations. The commission's decision then becomes the department's proposed decision, subject to an opportunity for hearing under [section 15].

**Section 5.** Section 87-4-411, MCA, is amended to read:

1       "87-4-411. License and renewal fees -- deposit of fees.

2       (1) The department shall charge an initial game farm license  
3       fee of ~~\$100~~ \$200 and for each year thereafter shall charge  
4       an annual renewal fee of ~~\$25~~ \$50.

5       (2) The fees must be deposited in the state special  
6       revenue fund for the use of the department for purposes of  
7       this part."

8       **Section 6.** Section 87-4-412, MCA, is amended to read:

9       "87-4-412. Term of license -- renewal --  
10       ~~nontransferability~~ transferability. (1) A game farm license  
11       expires on January 31 of the year succeeding the year of  
12       issuance. Application for renewal must be made before a  
13       license expires. The department shall renew the license upon  
14       payment of the renewal fee if the licensee has ~~not-violated~~  
15       ~~any-provisions-under-which-the-license-was-granted~~ complied  
16       with all recording and reporting requirements.

17       (2) A game farm license ~~FOR A SPECIFIC FACILITY~~ is  
18       ~~nontransferable~~ transferable with the consent of the  
19       department. The department's consent must be given if:

20       (a) the transferee meets the requirements of [section  
21       4(1)];

22       (b) the game farm and facilities are in compliance with  
23       requirements in place at the time the license was issued;

24       (c) the game farm is not under quarantine by the  
25       department of livestock;

1       (d) game farm animals to be transferred are not  
2       prohibited under this part and department rules; and

3       (e) the transfer is not proposed as a means to evade a  
4       requirement imposed on the licensee."

5       **Section 7.** Section 87-4-414, MCA, is amended to read:

6       "87-4-414. Game farm animals as private property --  
7       source. (1) All game farm animals lawfully ~~raised~~ possessed  
8       on a licensed game farm are the private property ~~of-the~~ for  
9       which the licensee is responsible as provided by law.

10       (2) The licensee may acquire, breed, grow, keep,  
11       pursue, capture, ~~kill~~ harvest, use, sell, or dispose of the  
12       game farm animals and their progeny in any quantity, and at  
13       any time of year, ~~--and--in--any-manner,~~ as long as he the  
14       licensee complies with the requirements of this part.

15       (3) A licensee shall mark each game farm animal in a  
16       manner approved by the department of livestock ~~and-the~~  
17       department that ~~facilitates~~ indicates ownership and provides  
18       individual identification of animals for inspection,  
19       transportation, reporting, and taxation purposes.

20       (4) ~~Before-allowing-hunting-of-any-game-farm-animals-on~~  
21       ~~a--game-farm--the-game-farm-licensee-must-obtain-a-game-farm~~  
22       ~~shooting-license-from-the-department.~~ Game farm animals must  
23       be lawfully acquired by the licensee.

24       (5) Except for importation permits and health  
25       certificates required under 81-2-703, laws applicable to

1 game animals do not apply to game farm animals raised on a  
2 licensed game farm."

3 **Section 8.** Section 87-4-415, MCA, is amended to read:

4 "87-4-415. Transportation and sale of game farm animals  
5 -- quarantine. (1) ~~Whenever the licensee of a licensed game~~  
6 ~~farm sells or disposes of one or more game farm animals, he~~  
7 ~~shall, at the same time, deliver to the recipient or~~  
8 ~~otherwise cause to accompany each game farm animal or~~  
9 ~~animals an invoice or bill of sale signed by the licensee or~~  
10 ~~his agent stating the number of the game farm license, the~~  
11 ~~date of acquisition or disposition, the species, the age,~~  
12 ~~sex, and class of game animals disposed of, and the name and~~  
13 ~~address of the transferee. This invoice or bill of sale,~~  
14 ~~along with any required health certifications, authorizes~~  
15 ~~transportation of the game farm animal or animals being~~  
16 ~~sold, transferred, or disposed of.~~

17 (2) ~~Within 10 days after movement or sale, the licensee~~  
18 ~~or his agent shall mail postpaid a duplicate of the invoice~~  
19 ~~or bill of sale to the department of livestock and the~~  
20 ~~department. Prior to selling, transferring, transporting, or~~  
21 ~~disposing of one or more game farm animals, the game farm~~  
22 ~~licensee shall contact the department of livestock to~~  
23 ~~request an inspection by a department of livestock stock~~  
24 ~~inspector for all game farm animals except carnivores and~~  
25 ~~omnivores. In the case of carnivores and omnivores, the game~~

1 farm licensee shall contact the department to request an  
2 inspection by a department official. This section applies to  
3 all game farm animals, whether alive or dead.

4 (2) (a) Inspection under subsection (1) must include  
5 examination of the game farm animal and all marks, tags, and  
6 tattoos to identify ownership prior to issuance of a  
7 certificate of inspection.

8 (b) A certificate of inspection must be made in  
9 triplicate and must specify:

10 (i) the date of inspection;

11 (ii) the place of origin and destination of the  
12 shipment;

13 (iii) the name and address of the owner of the game farm  
14 animals and of the purchaser or transferee;

15 (iv) the number, species, age, and sex of game farm  
16 animals transported or disposed of;

17 (v) ear tag numbers and tattoos on each animal; and

18 (vi) any other information that the department of  
19 livestock may require.

20 (c) A copy of the certificate must be:

21 (i) retained by the inspector;

22 (ii) furnished by the inspector to the owner or shipper  
23 of the game farm animals, to accompany the animals to their  
24 destination;

25 (iii) filed by the inspector with the department of

1 livestock within 5 days of inspection; and

2 (iv) provided by the department of livestock to the  
3 department within 10 days of inspection.

4 (3) The department of livestock may quarantine any game  
5 farm animal pending inspection and health certification. The  
6 department shall advise the department of livestock  
7 regarding the importation or transportation of any game farm  
8 animal that the department reasonably believes may be  
9 infected with a disease specific to wildlife."

10 **Section 9.** Section 87-4-416, MCA, is amended to read:

11 **"87-4-416. Sale of game parts, meats, and byproducts.**

12 (1) A game farm licensee may sell or otherwise dispose of  
13 the carcass, parts, or byproducts of a properly identified  
14 game farm animal taken from a game farm, ~~only upon preparing~~  
15 ~~an invoice or bill of sale and attaching a~~ in accordance  
16 with the provisions of 87-4-415. A copy of it the  
17 certificate of inspection must be attached to the carcass or  
18 container and keeping a copy for his records. Upon the  
19 attaching of the ~~invoice or bill of sale~~ certificate of  
20 inspection, to the carcass, parts, or byproducts of the game  
21 ~~farm animal, the same~~ may be transported within the state to  
22 the transferee named on the ~~invoice or bill of sale~~  
23 certificate of inspection.

24 (2) The licensee may sell game farm animals for meat  
25 upon compliance with all applicable health laws."

1 **Section 10.** Section 87-4-417, MCA, is amended to read:

2 **"87-4-417. Records and reporting.** (1) Each game farm  
3 licensee shall keep and maintain for 3 years accurate  
4 written records of all purchases, transfers, and sales of  
5 game farm animals showing:

6 (a) the number of each species of game farm animal  
7 purchased by the game farm licensee and from whom purchased;

8 (b) the number of each species of game farm animal  
9 transferred or sold, the date of transfer or sale, and the  
10 name and address of the person to whom the transfer or sale  
11 was made; and

12 (c) individual identification of each game farm animal  
13 purchased, transferred, or sold.

14 (2) ~~On or before January 31~~ Within 2 weeks after  
15 January 1, April 1, and September 1 of each year, the game  
16 farm licensee shall file a report with the director, showing  
17 the number and species of game farm animals on hand as of  
18 January 1, April 1, and September 1 and the number and  
19 species of game farm animals bought or, sold, or propagated  
20 during the past-year reporting period."

21 **Section 11.** Section 87-4-422, MCA, is amended to read:

22 **"87-4-422. Rulemaking.** (1) The department may adopt and  
23 enforce ~~only such rules as that~~ are necessary to implement  
24 the provisions of this part and to coordinate regulation of  
25 game farms with the department of livestock.



(2) The rules may address but are not limited to the classifying of cloven-hoofed ungulates, fencing requirements for facilities, reporting and recordkeeping requirements, transportation and importation, restrictions on importation, identification, sale of animal parts, and the care and maintenance of game farm animals, and game farm shooting licenses."

**NEW SECTION. Section 12. Revocation of license -- criteria -- penalties.** (1) The department may revoke any game farm license or impose any of the penalties or conditions specified in subsection (2) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate a game farm according to the provisions of this part, rules adopted under this part, or stipulations of the game farm license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of \$100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the

preceding 5 years;

(e) negligent or willful misconduct of the game farm operation, including but not limited to the unauthorized egress and ingress of big game ANIMAL species or game farm animals that:

(i) threatens public safety;

(ii) endangers native big game ANIMAL populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the game farm animals of others;

(f) a material and willful falsification of any required game farm records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of a game farm;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other game farm animals and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial

1 notice or if the misconduct is repeated.

2 (3) If the department finds, after opportunity for a  
3 hearing required under [section 15], that a game farm  
4 licensee or the principal manager is responsible for any act  
5 or omission set out in subsection (1), the department may in  
6 its discretion impose any one or more of the following  
7 penalties upon the licensee:

8 (a) revocation of the game farm license for up to 5  
9 years;

10 (b) imposition of a civil penalty not to exceed \$5,000,  
11 restoration of any damage to native wildlife, or both;

12 (c) deferral of the revocation of a license subject to  
13 the completion of or adherence to specified conditions; or

14 (d) reprimand of a licensee.

15 (4) In addition to the revocation of a license or other  
16 penalties allowed by this section, a person who purposely or  
17 knowingly violates this part or a rule adopted pursuant to  
18 this part is subject to criminal prosecution and a fine of  
19 not more than \$1,000, imprisonment in the county jail for  
20 not more than 1 year, or both. Any violation of 87-3-118 is  
21 subject to prosecution and penalties under that section.

22 **Section 13.** Section 87-4-423, MCA, is amended to read:

23 "87-4-423. Revocation of license -- penalty procedure  
24 -- disposition of animals. (1) A game farm license may be  
25 revoked for failure to operate the game farm according to

1 the provisions of this part or rules adopted under this  
2 part. Proceedings for the revocation of a license or the  
3 discipline of a licensee must be based on a determination by  
4 the department, after an investigation, that there is good  
5 cause and a sufficient factual basis to believe that the  
6 licensee or the principal manager is responsible for one or  
7 more of the acts or omissions set out in [section 12(1)].

8 (2) The department may initiate revocation or  
9 disciplinary proceedings against a licensee by specifying  
10 the grounds in writing to the licensee and providing an  
11 opportunity for a hearing as provided in [section 15].

12 {2}{3} Upon discovery of a violation of recordkeeping  
13 or reporting requirements that is not a material violation  
14 or an attempt to deceive, the department shall give notice  
15 of the violation to the licensee, with a statement that the  
16 violation must be corrected within 30 days of the notice,  
17 unless a longer period is approved by the department. Upon  
18 failure of the licensee to correct the violation, the  
19 department may institute revocation proceedings.

20 {3}--Upon failure of the licensee to correct the  
21 violation, the department may institute revocation  
22 proceedings; if the department institutes revocation  
23 proceedings, it shall provide reasonable notice and  
24 opportunity for a hearing to the licensee. After hearing and  
25 upon proof of violation, the department may revoke the game

1 farm-licensee.

2 (4) (a) In--addition--to--the--revocation--of--a--license  
 3 allowed-by-this-section, a person who violates this part--or  
 4 a--rule--adopted-under-this-part-is-subject-to-a-fine-of-not  
 5 more-than-\$500-or-imprisonment-in-the-county--jail--for--not  
 6 more--than--1--year,--or--both. A licensee whose license is  
 7 revoked shall lawfully dispose of any game farm animal held  
 8 pursuant to the license. Lawfully acquired and held game  
 9 farm animals may be disposed of by the licensee within 180  
 10 days of the license revocation or within a longer period if  
 11 specified by the department in the revocation order. After  
 12 the expiration of this period, the department shall seize  
 13 and dispose of any game farm animals that have not been  
 14 lawfully disposed of by the licensee. Any proceeds that  
 15 remain after deducting the department's expenses revert to  
 16 the licensee. Any unrecovered costs may be charged to the  
 17 licensee.

18 (b) The department, when it is determined to be  
 19 necessary by the state veterinarian appointed pursuant to  
 20 81-1-301, may require that diseased or potentially diseased  
 21 game farm animals be quarantined or destroyed."

22 **Section 14.** Section 87-4-424, MCA, is amended to read:

23 "87-4-424. Department restrictions on importation of  
 24 certain species. The department or the department of  
 25 livestock may restrict from importation for purposes of game

1 farming any species or subspecies and their hybrids with  
 2 native species that are determined through scientific  
 3 investigation to pose a threat to native wildlife or  
 4 livestock through nonspecific genetic dilution, habitat  
 5 degradation or competition caused by feral populations of  
 6 escaped game farm animals, parasites, or disease."

7 **NEW SECTION. Section 15.** Right to administrative  
 8 hearing. (1) An applicant must be given notice and an  
 9 opportunity for a hearing on a proposed denial or issuance  
 10 with stipulations of a game farm license pursuant to  
 11 [section 4] before the department may deny a license or  
 12 grant a license with stipulations.

13 (2) A licensee must be given notice and an opportunity  
 14 for a hearing before the department may refuse to renew a  
 15 license, withhold consent to the transfer of a license,  
 16 revoke a license, or discipline a licensee.

17 (3) The notice and an opportunity for a hearing and any  
 18 judicial appeal must be conducted as provided in Title 2,  
 19 chapter 4, parts 6 and 7.

20 **NEW SECTION. Section 16.** Repealer. Section 87-4-421,  
 21 MCA, is repealed.

22 **NEW SECTION. Section 17.** Codification instruction.  
 23 [Sections 4, 12, and 15] are intended to be codified as an  
 24 integral part of Title 87, chapter 4, part 4, and the  
 25 provisions of Title 87, chapter 4, part 4, apply to

1 [sections 4, 12, and 15].

2 NEW SECTION. **Section 18.** Effective date. [This act] is

3 effective on passage and approval.

-End-